

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

Joseph H. Gibbs, #185709,) C.A. #3:08-3955-PMD
)
Plaintiff,)
)
vs.) **ORDER**
)
Mr. John E. Ozmints, as Director of SCDC,)
et al, Respondeat Superior,)
)
Defendants.)
)

On November 13, 2009, this court issued an Order adopting the Report and Recommendation of the Magistrate Judge granting defendants' motion for summary judgment and remanding plaintiff's remaining state law claims to State Court due to plaintiff's failure to file objections. Upon further review the court has now determined that plaintiff did file timely objections on November 6, 2009, which this court was not aware of at the time of the order. Now therefore,

IT IS HEREWITH ORDERED that this court's Order filed on November 13, 2009, adopting the Report and Recommendation and granting defendants' motion for summary judgment and remanding plaintiff's remaining state law claims to State Court in the above named matter is herewith vacated, and the court will consider plaintiff's objections.

AND IT IS SO ORDERED.



PATRICK MICHAEL DUFFY
United States District Judge

November 17, 2009
Charleston, South Carolina